THE HON'BLE SRI JUSTICE C.V. RAMULU

Review W.P.M.P.No.25145 of 2005

in

W.P.No.28049 of 1995

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ORAL ORDER:

This petition is filed seeking to review the Order dated 25-7-2005 made in Writ Petition No.28049 of 1995.

Writ Petition No.28049 of 1995 and batch were disposed of by this Court holding as under:

> "Accordingly, the Writ Petitions are disposed of following the Order passed in Writ Petition No.15960 of 1995, dated 23-6-2005 in the same terms. However, this order will not preclude the petitioners from making a detailed representation, if they have got any other grievance as to the fixation of salary etc., for the service rendered by them earlier in the organization and the same shall be considered, within a period of two months from the date of receipt of representation, in accordance with law. No costs."

Now, it is the contention of the petitioners that they filed the above Writ Petition seeking to quash the Proceedings dated 11-12-1995 of the respondent, which reveals that the Orders dated 30-9-1995 regularizing their services and appointing them as Junior Marketing Officers were cancelled in the meeting held on 27-11-1995. According to them, through the impugned Proceedings dated 11-12-2005 the respondent sought to terminate their services on the ground that their appointment is not in terms of G.O.Ms.No.212, Finance and Planning (FW.PC.III) Department, dated 22-4-1994, since as on the cut off date i.e. 25-11-1993, they have not completed 5 years of service. It is their case that the Orders cancelling the regularization of their services on the ground that they have not completed five years of service as on the cut-off date i.e. 25-11-1993 is bad in law, in view of the Judgment of the Supreme Court reported in **DISTRICT COLLECTOR/CHAIRMAN v. T. DEVENDERPAL SINGH** and as such, the impugned Orders in the Writ Petition are liable to be set aside and disposing of the said Writ Petition along with the batch of Writ Petitions is erroneous.

Per contra, Sri A.Veera Swamy, learned counsel appearing for the respondent,

strenuously contended that even if the petitioners are held to be entitled for regularization as per G.O.Ms.No.212, Finance and Planning Department, dated 22-4-1994, since they have completed more than 5 years of service as on the date of consideration of their cases, may be not on the cut-off date, but their services cannot be utilized in view of the disbandment of the scheme. In fact, their services are also liable to be terminated on par with other similarly situated persons. Whereas, the learned counsel for the petitioners stated that whether the petitioners' services are liable to be terminated or not on par with others, they are entitled for a declaration that their services are liable to be regularized as per the said Judgment of the Apex Court.

In fact, under similar circumstances, a Division Bench of this Court in W.A.Nos.603 to 605 of 1995, dated 30-6-1995 held as under:

> "……..On the facts of the case, we are inclined to adopt the reasoning given in P*eople's Union for Democratic Rights v. Union of India – AIR 1982 SC 1473* that such employees, who belong to the socially exploited class of citizens, should not be made to suffer on account of wagaries of the employer. We accordingly affirm the order of the learned single Judge with the modification, however, that the services of the respondent-employees shall be regularized with effect from the date or dates they completed five years of continuous service and they shall be paid wages (obviously not less than the minimum wages) on par with the wages paid to the permanent employees of their category.

The Apex Court in **DISTRICT COLLECTOR/CHAIRMAN v. T. DEVENDERPAL SINGH** upheld the said decision of the Division Bench. In view of the said decisions, there is no necessity that the petitioners should have put in five years of service as on 25-11-1993 and it is suffice if they put in five years of continuous service in the organization as on the date of consideration of their cases.

There is no dispute that the petitioners have completed 5 years of service as on the date of consideration of their cases. But, since, thereafter it was found that they have not satisfied the criterion of 5 years service as on the cut-off date, the orders of regularization were sought to be cancelled. In view of the above Judgments, without going into other aspects of the matter, I am of the considered opinion that the petitioners are entitled for regularization of their services as on the date when their cases were considered by the respondent. Therefore, the impugned Orders in the Writ Petition are arbitrary and illegal and are liable to be set aside.

Accordingly, the Review Petition is allowed and the Order dated 25-7-1995 insofar as Writ Petition No.28049 of 1995 is concerned, is set aside. Consequently, the Writ Petition No.28049 of 1995 is allowed to the extent indicated above. It is needless to mention that this order will not have any consequence in considering the effect of disbandment of the scheme on the petitioners along with others.

-11-2005

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